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September 27, 2000

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SEP 27 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.—The Portals
TW-B204
Washington, D.C. 20554

**Re: America Online, Inc. Notice of *Ex Parte* Presentation**
**Applications of America Online, Inc. and Time Warner Inc.**
**for Transfers of Control, CS Docket No. 00-30**

EX PARTE OR LATE FILED

Dear Ms. Salas:

On behalf of America Online, Inc. ("AOL"), submitted herewith pursuant to Section 1.1206(b)(2) of the Commission's rules, are an original and one copy of this notice regarding a permitted oral *ex parte* presentation in the above-referenced proceeding. On September 26, 2000, Steven N. Teplitz, AOL Vice President, Telecommunications Policy, spoke with Kyle Dixon, legal advisor to Commissioner Powell. Mr. Teplitz discussed the substance of the meeting he had attended on September 25, 2000, with Deborah Lathen, Chief, Cable Services Bureau, and other members of Commission staff, regarding instant messaging and AOL and Time Warner's memorandum of understanding to provide consumers with access to multiple ISPs over Time Warner cable systems, as described in an *ex parte* letter filed with the Commission on September 26, 2000, a copy of which is attached hereto.

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Wayne D. Johnsen

Wayne D. Johnsen

Attachment
cc: Kyle Dixon, Office of Commissioner Powell (w/ attachment)
Royce Dickens, Deputy Chief, Policy and Rules Division,
Cable Services Bureau (w/attachment)
James Bird, FCC Assistant General Counsel (w/ attachment)
Linda Senecal, Cable Services Bureau (w/ attachment)
International Transcription Services, Inc. (w/ attachment)

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OFFICE OF THE SECRETARY

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Re: America Online, Inc. and Time Warner Inc. Notice of *Ex Parte* Presentation
Applications of America Online, Inc. and Time Warner Inc.
for Transfers of Control, CS Docket No. 00-30

Dear Ms. Salas:

On behalf of America Online, Inc. ("AOL") and Time Warner Inc. ("Time Warner"), submitted herewith pursuant to Section 1.1206(b)(2) of the Commission's rules are an original and one copy of this notice regarding permitted oral *ex parte* presentations in the above-referenced proceeding. On September 25, 2000, representatives of AOL and Time Warner met with members of the Commission's staff to discuss the parties' memorandum of understanding ("MOU") on multiple ISP access to Time Warner cable systems and issues regarding instant messaging.

Attending the meeting on behalf of AOL were George Vradenburg, III, Senior Vice President, Global and Strategic Policy; Steven N. Teplitz, Vice President—Telecommunications Policy; and Richard E. Wiley and Peter D. Ross of Wiley, Rein & Fielding. Barry Schuler, President of AOL's Interactive Services Group, joined in the instant messaging segment of the meeting, and Catherine R. Nolan, Time Warner Vice President, Law and Public Policy, represented Time Warner in the MOU segment.

Deborah Lathen, Chief, Cable Services Bureau ("CSB") and Jim Bird, Office of General Counsel attended the meeting in full. David J. Farber, FCC Chief Technologist, Office of Engineering

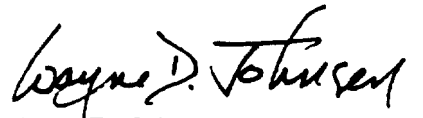
and Technology ("OET"); Robert Pepper, Chief, Office of Plans and Policy ("OPP") and Douglas Sicker of OET joined in the instant messaging segment of the meeting. Gerald R. Faulhaber, FCC Chief Economist, OPP, attended the MOU portion of the meeting.

The MOU portion of the meeting focused on the parties' plan to implement their commitment, exemplified in the MOU, not to discriminate on the basis of affiliation when providing consumers with access to multiple ISPs over Time Warner cable systems, including as to technical issues described in the parties' September 6, 2000 filing. The parties addressed staff questions regarding the enforceability of the terms of the MOU. AOL and Time Warner noted that they are continuing to work toward expediting the availability of multiple ISPs on Time Warner cable systems and across the cable industry. They identified steps already taken to that end: Time Warner's deal with Juno, the technical open access trials, and efforts to restructure Road Runner to enable a multiple ISP environment on a more expedited basis.

The instant messaging discussion focused on technical issues surrounding interoperability. AOL once again confirmed its support for true server-to-server based interoperability. AOL expressed its continued concern that interoperability that fails to protect users' privacy and security will harm consumers. AOL emphasized that it is seeking to ensure that IM interoperability maintains IM's continued appeal as a scalable, secure, reliable, spam-free and popular feature of Internet service. AOL also described its participation in the IETF; the proposal it has made to the IETF regarding interoperability; and its efforts also to work on a parallel track to expedite developing an effective approach and technology for interoperability. AOL also discussed the fact that IM is a free feature of the Internet—not a "facility" or "platform" and that IM is distinct from other applications that also would utilize presence detection. AOL noted that presence detection technology is widely available and that IM is only one application of that technology.

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Wayne D. Johnsen

cc: Deborah Lathen
David Farber
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